

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 89-16

January 30, 1989

TO: All Regional Directors, Officers-in-Charge
and Resident Officers

FROM: Joseph E. DeSio, Associate General Counsel

SUBJECT: Addendum to EAJA Model Letter

You were recently provided model letters which all employees could use to document the extent of a charged party's noncooperation. See Memorandum OM 89-5, EAJA Model Letters. In EAJA Model Letter A, the penultimate paragraph was inadvertently omitted.^{1/} Accordingly, please substitute the attached EAJA Model Letter A for the corresponding model letter you previously received.

If you have any questions regarding this matter, please contact your Assistant General Counsel.

J. E. D.

Attachment

cc: NLRBU

^{1/} This paragraph was the subject of Memorandum OM 88-17.

MEMORANDUM OM 89-16

Re:

Board Agent:
Telephone :

This is to inform you that a charge, a true copy of which is enclosed, was filed in the above-entitled matter.

This case has been assigned to the Board agent shown above. When the Board agent solicits relevant evidence from you or your counsel, I request and strongly urge you or your counsel to promptly present to the Board agent any and all evidence relevant to the investigation. It is my view that a refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily. Full and complete cooperation includes, where relevant, timely providing all material witnesses under your control to a Board agent so that witnesses' statements can be reduced to affidavit form, and providing all relevant documentary evidence requested by the Board agent. The submission of a position letter or memorandum, or the submission of affidavits not taken by a Board agent does not constitute full and complete cooperation.

Enclosed is a form requesting commerce data which should be completed, signed by you and returned in the enclosed envelope addressed to my attention.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the courts. If you choose to have a representative appear on your behalf, please complete NLRB Form 4813 which may be used if you choose to have your agent receive exclusive service of all documents and communications except those expressly excluded. Please note that NLRB Form 4701 may be executed by your designated representative, but that NLRB Form 4813 will not be honored unless it is signed by you as a party.

Please be advised that under the Freedom of Information Act, unfair labor practice charges and representation petitions are subject to prompt disclosure to members of the public upon request. In this regard, you may have received a solicitation by organizations or persons who have obtained public information concerning this matter and who seek to represent you before our Agency. You may be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board; their information regarding this matter is only that which must be made available to any member of the public.